

REMARKS

Claims 1-27 are pending in this application. All of the pending claims were rejected. None of the claims is currently amended. Reconsideration is respectfully requested.

Claims 1-27 were rejected under 35 U.S.C. 103(a) over Naveh and US 20030212829 A1 (“Schofield”). At pages 2 and 3 the Office concedes that Schofield is critical to the rejection.¹ However, Schofield is not prior art to this application and cannot properly be applied. MPEP 2141.01 states “a 35 U.S.C. 103 rejection is based on 35 U.S.C. 102(a), 102(b), 102(e), etc. depending on the type of prior art reference used and its publication or issue date.” Since the rejection in this application was under 103(a), in order to qualify as prior art the reference must be “in a printed publication in this or a foreign country, **before the invention thereof** by the applicant for patent.” (from 102(a), emphasis added) The Office will please take note that the present application and Schofield were filed on the same date, and that both applications claim priority to the same provisional patent application - 60/225,335, filed August 15, 2000. Schofield is not, therefore, “before the invention thereof” of this application as that term applies to §103. Note also the intersection of inventorship and that both applications are assigned to the same entity.

Since the foundation of the rejection hinges on teachings in Schofield, and since Schofield is not prior art to this application, the rejections of claims 1-27 must be withdrawn.

¹ E.g., at page 3 “Naveh does not disclose an optical service manager and UNI.”

For the reasons stated above, this application is now considered to be in condition for allowance and such action is earnestly solicited. The Office is encouraged to contact Applicants' Attorney at 978-264-4001 to discuss any issues which might expedite allowance of this application.

Respectfully Submitted,

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Date

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